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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,390	03/17/2004	Zion Azar	299/03782	3668
44909	7590	06/25/2009		
PRTSI			EXAMINER	
P.O. Box 16446			AHMED, HASAN SYED	
Arlington, VA 22215				
			ART UNIT	PAPER NUMBER
			1615	
			MAIL DATE	DELIVERY MODE
			06/25/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/802,390

**Applicant(s)**

AZAR ET AL.

**Examiner**

HASAN S. AHMED

**Art Unit**

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Receipt is acknowledged of applicants' change of correspondence address application and remarks, both filed on 23 March 2009.

\* \* \* \* \*

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 6 remain rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,676,501 ("Beaudry").

Beaudry discloses an abrasive pad comprising:

- the abrasive surface of instant claim 1 (*see* col. 3, line 32);
- the elastomer backing of instant claim 1 (*see* col. 3, line 37);
- the slits and flaps of instant claim 1 (*see* fig. 1a); and
- the cylindrical shape of instant claim 6 (*see* fig. 1a).

\* \* \* \* \*

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Beaudry in view of U.S. Patent No. 3,775,014 ("Rosborne").

Beaudry discloses an abrasive pad (see above). Beaudry explains that the disclosed pad is beneficial because it has a work portion and a grip portion (see col. 1, lines 11-12).

Beaudry differs from the instant application in that it does not disclose the sponge material of instant claim 2 and 13 or the ring of instant claims 3-5, 7, 10, and 12. However Rosborne discloses an abrasive pad comprising a sponge material (see col. 1, line 67) and a ring (see fig 3, item 8).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to disclose an abrasive pad comprising an abrasive surface, an elastomer or sponge backing, flaps, and a ring, as taught by Beaudry in view of Rosborne. One of ordinary skill in the art at the time the invention was made would have been motivated to make such an article because it has a work portion as well as a grip portion, as explained by Beaudry.

\* \* \* \* \*

### ***Response to Arguments***

Applicants' arguments filed on 23 March 2009 have been fully considered but they are not persuasive.

1. Applicants argue that Beaudry does not use elastomeric or sponge material. See remarks, page 2.

Examiner respectfully submits that the flexible material recited at col. 3, line 37 reads on the elastomeric material of instant claim 1. Since applicants do not provide a special definition of "elastomer" in the specification, given its broadest reasonable interpretation, the polypropylene, acetate, or any other flexible material disclosed at col. 3, line 37 of Beaudry are deemed to be elastomeric materials as they are flexible and have elastic properties.

2. Applicants argue that Beaudry does not teach two slits formed in the backing. See remarks, page 3.

It is noted that the feature upon which applicants rely (i.e., slits formed in the backing) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 recites "...the elastomer or sponge material is formed with two slits..." (emphasis added); as such, the claim does not require the slits to be formed in the backing. For example, the language of claim 1 may encompass two slits adhesively attached to the backing as opposed to the formation of slits by making deep cuts in the backing material itself.

3. Applicants argue that it is not possible to combine the Rosborne's design with Beaudry's since the grasping mechanisms of the two articles are different. See remarks, page 4.

Examiner respectfully submits that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the

primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Both Rosborne and Beaudry are of the same field of endeavor as both are articles that abrade a surface. Rosborne was invoked for the teachings of a sponge material and a ring, which a person of ordinary skill in the art could apply to the article of Beaudry, having read the Rosborne disclosure.

\* \* \* \* \*

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

★

#### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HASAN S. AHMED whose telephone number is (571)272-4792. The examiner can normally be reached on 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Woodward can be reached on (571)272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. S. A./  
Examiner, Art Unit 1615

/Humera N. Sheikh/  
Primary Examiner, Art Unit 1615